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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,694	08/11/2003	Thomas J. Weed	28679/05409	1693
24024	7590	06/15/2005	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP			MARC, MCDIEUNEL	
800 SUPERIOR AVENUE			ART UNIT	
SUITE 1400			PAPER NUMBER	
CLEVELAND, OH 44114			3661	

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,694

Applicant(s)

WEED ET AL.

Examiner

McDieunel Marc

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,8,9,11-16 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 4,5,7,10 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/22/2004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 are presented for examination.
2. The abstract of the disclosure is objected to because the title should be deleted on top of the abstract. Correction is required. See MPEP § 608.01(b).

3. Claims 2 and 18 are objected to because of the following informalities:

In claim 2, line 3, the word [apply], should be replaced by -- applying --.

Appropriate correction is required.

Dependent claims not specifically rejected are rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-3, 6, 8-9, 11-16 and 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Breed (U.S. Pat. No. 6,738,697).

As per claim 1, Breed teaches telematic system for vehicle diagnostic having a method for stopping a vehicle (see abstract) comprising the steps of: sending a signal requesting the vehicle to stop via a (telematic device)¹ (see abstract as noted above); processing the signal within a vehicle ECU (see col. 2, lines 37-51); and commencing a vehicle stop sequence (see col. 82, lines 41-48, inherently a sequence of stopping has been performed).

As per claims 19-20, Breed teaches telematic system for vehicle diagnostic having a method for stopping a vehicle (see abstract) comprising the steps of: communicating a stop signal to a telematic device (see col. 82, lines 41-48, inherently the communication has been established with the diagnostic/telematic system); relaying said stop signal from said telematic device to a vehicle (see col. 82, lines 41-48,

¹ The telematics device will use multiple microprocessors based on IBM's Power Architecture, and will have the capability to monitor the speed of the vehicle and send out a warning if the car surpasses the posted speed limit. IBM engineers will design the infrastructure for the traffic-tracking system. Wireless access points, which will monitor the devices, will be installed on street lights and other places along the roadway.

The telematic device will include several wireless technologies, including GSM (Global System for Mobile Communications) cellular capabilities and General Packet Radio Service. Bluetooth and an optional driver-identification feature using RFID also will be on the device.

inherently the diagnostic/telematic system instructs the vehicle to apply the barke); receiving said stop signal on the vehicle (see col. 82, lines 41-48 as noted above being also considered as signal received on the vehicle); transmitting said stop signal to a vehicle ECU (see abstract and col. 2, lines 38-51 as noted above); and transmitting said stop signal to one or more of the following: a primary brake system (which being considered as ABS), a spring break system (which being considered as manual braking as well as foot pedal), and an engine ECU (see col. 2, lines 38-51).

As per claims 2, 3, 6, 8-9, 11-16 and 18 Breed teaches a method of commencing a vehicle stop sequence includes one or more of the following steps: apply a vehicle primary brake system (being considered broadly as braking/ABS), applying a vehicle spring brake system (being considered as manual braking as well as foot braking), applying an engine torque reducer (which being considered as switching to lower gear), applying a vehicle torque limitation device (being considered as neutral gear), or applying an engine kill switch (being considered as turn off); wherein the vehicle ECU is an anti-locking brake system ECU, or any combination thereof via an existing vehicle communication bus (see col. 2, lines 38-51, wherein the braking being considered as ABS); performing a diagnostic check to verify that the vehicle is capable of receiving said signal from said telematic device (see abstract and col. 2, lines 38-51); performing a diagnostic check to verify that the vehicle is capable of receiving said signal from said telematic device and performing a diagnostic check to verify that the ECU is capable of receiving a operator validation signal (see abstract and col. 2, lines 38-51); wherein said stop sequence is commenced when said telematic device diagnostic test fails; and when either the telematic device diagnostic test fails or the operator authentication diagnostic test fails (see col. 2, lines 38-51); resetting the vehicle brake and/or engine systems thereby allowing operation of the vehicle (see col. 2, lines 38-51 as noted above); wherein said telematic device is a Qualcomm system (being considered as design choice); wherein said signal from said telematic device is encoded (inherently

the device should be encoded in order to be used in a unique system); wherein said telematic device further provides a vehicle identification signal (having VIS being considered as design choice).

Allowable Subject Matter

6. Claims 4, 5, 7, 10 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fail to teach or fairly suggest with respect to claim 4, a method having **authenticating an operator's identification and transmitting an operator validation signal to said ECU**; with respect to claim 17, a method having **broadcasting a vehicle identifier signal when a vehicle stop identifier signal has been received in combination with the other elements of the claimed invention.**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to McDieunel Marc whose telephone number is (571) 272-6964. The examiner can normally be reached on 6:30-5:00 Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3661

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


McDieunel Marc

Friday, June 03, 2005

MM/